

Appl. No. 09/982,582
Response Dated September 16, 2003
Reply to Office Action of June 18, 2003

REMARKS/ARGUMENTS

Responsive to the Office Action Applicant requests reconsideration for allowance of Claims 11 and 12 previously and now presented in this application.

In the Office Action, the Examiner rejected Claims 11 and 12 under 35 U.S.C. 102(b) as being anticipated by the article regarding a 1996 Mercedes Benz 3234B8x4 concrete mixer truck as appearing on the boss-truck.com website. The reference cited by the Examiner is dated June 14, 2003.

Applicant respectfully submits that the reference is not prior art since this application has a priority date of October 18, 2001. The reference cited by the Examiner depicts a concrete mixer truck with signage comprising alternate signs disposed on the circumference of a mixer drum. The reference has an effective publication date of June 14, 2003, and there is no evidence from this citation that the signage appearing on the drum of the truck shown in the reference was placed there prior to October 18, 2001. The reference to the model year of the truck does not reflect that the signage on the mixer drum was placed there prior to October 18, 2001. Accordingly, Applicant respectfully requests that the rejection based on this reference be withdrawn.

In the Office Action, the Examiner rejected Claims 11 and 12 under 35 U.S.C. 103(a) as being unpatentable over the article regarding the "Model 19 Series G Peterbilt Cement Truck - 1985 Matchbox No. 353" from the website ausbow.com (herein the Matchbox reference) in view of U.S. Patent 5,507,109 to Rinzler.

Applicant has reviewed the copy of the Matchbox reference supplied by the Examiner but it is not at all clear as to the configuration of the signage of the toy truck shown in the Matchbox reference. There appears to be some indicia on the example of the toy concrete mixer truck shown in the illustration of the Matchbox reference. However, such indicia clearly is not that which extends in a helical pattern with respect to the axis of rotation of the mixer drum, nor

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comprising alternate signs disposed on the circumference of the drum and in a helical pattern and the signage being inverted with respect to each other so as to be readable from opposite sides of the drum during rotation.

The Rinzler reference discloses a display panel which may be suspended at a desired tension with a hook and cord assembly and a retaining rod on one or both sides of a cargo trailer. The indicia "Signage 1" appears on one side and Applicant respectfully submits that the dashed line showing of the indicia "Signage 2" on the opposite side does not suggest modifying a rotating concrete mixer drum to provide signage which is extending axially and in a helical pattern and being inverted, one sign with respect to the other, to be readable in its entirety during drum rotation from opposite sides of the drum. Accordingly, Applicant respectfully submits that the Matchbox reference modified in view of Rinzler would not make obvious the over the road concrete mixer truck of Claim 11 or the method for displaying a message or advertisement according to Claim 12, and reconsideration for allowance of these claims is respectfully requested.

Applicant respectfully submits that Claims 11 and 12 clearly state a patentable combination in an over the road concrete mixer truck (Claim 11), and a method for displaying a message or advertisement (Claim 12). None of the references which comprise prior art disclose or suggest structure recited in Claims 11 and 12 with indicia comprising signage as required by these claims. The indicia is, indeed, part of and modifies the structure set forth in these claims and is not merely an aesthetic change, but includes functional features such as the helical pattern and the alternate or inverted form of the indicia so that the indicia can be read from opposite sides of a rotating drum.

Applicant further respectfully submits that the prior art of record fails to anticipate or make obvious the invention set forth in Claims 11 and 12 for the cogent reasons set forth above

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and reconsideration for allowance of these claims is respectfully solicited.

Respectfully submitted,

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